### IN THE UNITED STATES DISTRICT COURT

## FOR THE EASTERN DISTRICT OF TEXAS

#### **LUFKIN DIVISION**

DERODERIC C. STEPHENS §

VS. § CIVIL ACTION NO. 9:14-CV-170

ADEBAYO A. ADEROJU, et al., §

# MEMORANDUM OPINION AND ORDER DENYING PLAINTIFF'S MOTION TO DISMISS MAGISTRATE JUDGE

Plaintiff, Deroderic C. Stephens, a prisoner currently confined at the Hughes Unit, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against defendants Aderoju, Jansky, Allen, Reeves, and Bell.

Plaintiff filed a Motion to Dismiss the Magistrate Judge on September 22, 2017 (docket entry no. 54). In this motion, plaintiff complains that the Magistrate Judge "took it upon himself to make a judgment in his Report and Recommendation p7 (doc. #10-1)." Plaintiff states he did not give consent for the Magistrate Judge to preside over this action.

# <u>Analysis</u>

Pursuant to 28 U.S.C. § 636(b)(1)(B), "a judge may also designate a magistrate judge to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by a judge of the court, of any motion excepted in subparagraph (A), of applications for posttrial relief made by individuals convicted of criminal offenses and of prison petitions challenging conditions of confinement." *Id.* "Within fourteen days after being served with a copy, any party may serve and file written objections to such

proposed findings and recommendations to which objection is made. A judge of the court may

accept, reject, or modify, in whole or in part, the findings or recommendations made by the

magistrate judge." Id.

In the present case, plaintiff did not file objections to the Report and Recommendation. As

such, a Memorandum Order Adopting the Report and Recommendation and a Partial Judgment were

entered by this court on October 28, 2015 (docket entry nos. 12 & 13).

To the extent plaintiff complains of other orders entered by the Magistrate Judge, the court

finds they are neither clearly erroneous nor contrary to law. It is, therefore,

**ORDERED** that plaintiff's Motion to Dismiss the Magistrate Judge (docket entry no. 54)

is **DENIED**.

So Ordered and Signed

Nov 4, 2017

Ron Clark, United States District Judge

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2